

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA	:	
	:	
	:	
v.	:	
	:	CRIMINAL ACTION NO.
AUGUSTUS OSARO	:	1:91-CR-0121-3-JOF
AGBONGIAGUE,	:	
	:	
Defendant.	:	

OPINION AND ORDER

This matter is before the court on Defendant's motion for a reduction in sentence [159-1].

Defendant, Augustus Osaro Agbongiaque, was convicted of four counts of importing and distributing heroin and conspiracy to import and distribute heroin in June 1991. Defendant's conviction was affirmed by the United States Court of Appeals for the Eleventh Circuit on March 21, 1995. This court denied Defendant's application for habeas corpus relief pursuant to 28 U.S.C. § 2255 on November 10, 1998. The Court of Appeals refused to grant Defendant a certificate of appealability on November 3, 1999.

Defendant filed the instant motion on December 28, 2005. He asks the court to eliminate his sentence enhancements in light of the United States Supreme Court's ruling in

United States v. Booker, 543 U.S. 220 (2005). Defendant's conviction and sentence became final in 1995. The Supreme Court's ruling in *Booker* does not apply retroactively on collateral review. *See, e.g., Varela v. United States*, 400 F.3d 864, 967-68 (11th Cir. 2005). Therefore, the court DENIES Defendant's motion for a reduction in sentence [159-1].

IT IS SO ORDERED this 24th day of March 2006.

s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE